

MARY NEUMER, Individually and on	Behalf)	Case No.: 17-cv-1027
of All Others Similarly Situated,			
			CLASS ACTION COMPLAINT
Plaintiff,			
vs.			
)	Jury Trial Demanded
OPTIMUM OUTCOMES, INC.,			
Defendant.)	

6. Defendant Optimum Outcomes, Inc. (“Optimum”) is a debt collection agency with its principal offices located at 2651 Warrenville Road, Suite 500, Downers Grove, IL 60515

7. Optimum is engaged in the business of a collection agency, using the mails and telephone to collect consumer debts originally owed to others.

8. Optimum is engaged in the business of collecting debts owed to others and incurred for personal, family or household purposes. Optimum is a debt collector as defined in 15 U.S.C. § 1692a.

FACTS

9. On or about April 18, 2017, Optimum mailed a debt collection letter to Plaintiff regarding an alleged debt owed to “Froedtert and The Medical College of Wisconsin Community Physicians and originally owed to “Comenity Bank.” A copy of this letter is attached to this complaint as Exhibit A.

10. Upon information and belief, Exhibit A is a form letter, generated by computer, and with the information specific to Plaintiff inserted by computer.

11. Exhibit A states that the “Outstanding Balance” of the debt is \$911.67.

12. Exhibit A also states:

4/18/2017

Debtor # [REDACTED] 9473
Reference # [REDACTED] 2550
Date of Service 7/1/2016

Dear Mary Neumer:

We have written you previously concerning your past due account with Froedtert and The Medical College of Wisconsin Community Physicians for services rendered. You did not make the requested payment. As a result, your account has been reported to the credit bureaus as delinquent. Please pay your balance for services rendered to you listed below.

Account		DOS	Balance	Account		DOS	Balance
[REDACTED] 2550	7/1/2016		\$329.45	[REDACTED] 2550	7/1/2016		\$146.74
[REDACTED] 2550	7/12/2016		\$69.97				

Total Balance Due: \$546.16

13. Exhibit A is misleading and confusing to the unsophisticated consumer. In one place it states the balance is regarding a “date of service” of July 1, 2016. In another place on the

same letter, Optimum states that the account includes amounts from two accounts: July 1, 2016 and July 12, 2016.

14. The unsophisticated consumer reading Exhibit A could not be sure which amount Optimum was actually attempting to collect.

15. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

16. 15 U.S.C. § 1692e(2) specifically prohibits the “false representation of the character, amount, or legal status” of an alleged debt, or the “false representation of...compensation which may be lawfully received by any debt collector for the collection” of an alleged debt.

17. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation or deceptive means to collect or attempt to collect any debt.”

18. 15 U.S.C. § 1692f generally prohibits a debt collector from using “unfair or unconscionable means to collect or attempt to collect any debt.”

19. 15 U.S.C. § 1692f(1) specifically prohibits the “collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.”

20. 15 U.S.C. § 1692g(a)(1) states:

a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

(1) the amount of the debt;

21. Plaintiff was confused by Exhibit A.

22. The unsophisticated consumer would be confused by Exhibit A.
23. Plaintiff had to spend time and money investigating Exhibit A.
24. Plaintiff had to take time to obtain and meet with counsel, including traveling to counsel's office by car and its related expenses, including but not limited to the cost of gasoline and mileage, to advise Plaintiff on the consequences of Exhibit A.
25. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *Bock v. Pressler & Pressler, LLP*, No. 11-7593, 2017 U.S. Dist. LEXIS 81058 *21 (D.N.J. May 25, 2017) ("through [s]ection 1692e of the FDCPA, Congress established 'an enforceable right to truthful information concerning' debt collection practices, a decision that 'was undoubtedly influenced by congressional awareness that the intentional provision of misinformation' related to such practices, 'contribute[s] to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy,"); violations cause injury to consumers, and such injuries are concrete and particularized. *Quinn v. Specialized Loan Servicing, LLC*, No. 16 C 2021, 2016 U.S. Dist. LEXIS 107299 *8-13 (N.D. Ill. Aug. 11, 2016) (rejecting challenge to Plaintiff's standing based upon alleged FDCPA statutory violation); *Lane v. Bayview Loan Servicing, LLC*, No. 15 C 10446, 2016 U.S. Dist. LEXIS 89258 *9-10 (N.D. Ill. July 11, 2016) ("When a federal statute is violated, and especially when Congress has created a cause of action for its violation, by definition Congress has created a legally protected interest that it deems important enough for a lawsuit."); *Church v. Accretive Health, Inc.*, No. 15-15708, 2016 U.S. App. LEXIS 12414 *7-11 (11th Cir. July 6, 2016) (same); *see also Mogg v. Jacobs*, No. 15-CV-1142-JPG-DGW, 2016 U.S. Dist. LEXIS 33229, 2016 WL 1029396, at *5 (S.D. Ill. Mar. 15, 2016) ("Congress does have the power to enact statutes creating legal rights, the invasion of

which creates standing, even though no injury would exist without the statute,” (quoting *Sterk v. Redbox Automated Retail, LLC*, 770 F.3d 618, 623 (7th Cir. 2014)). For this reason, and to encourage consumers to bring FDCPA actions, Congress authorized an award of statutory damages for violations. 15 U.S.C. § 1692k(a).

26. Moreover, Congress has explicitly described the FDCPA as regulating “abusive practices” in debt collection. 15 U.S.C. §§ 1692(a) – 1692(e). Any person who receives a debt collection letter containing a violation of the FDCPA is a victim of abusive practices. *See* 15 U.S.C. § 1692(e) (“It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses”).

COUNT I -- FDCPA

27. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

28. Exhibit A is misleading and confusing to the unsophisticated consumer.

29. Exhibit A is ambiguous and unclear as to the amount that Optimum is actually attempting to collect. In one place it identifies the balance as being as of “July 1, 2016.” In another place on the same letter, Optimum states that the balance also includes medical services provided on another data.

30. The unsophisticated consumer reading Exhibit A could not be sure which amount Optimum was actually attempting to collect.

31. Defendants violated 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(10), and 1692g(a).

CLASS ALLEGATIONS

32. Plaintiff brings this action on behalf of a Class, consisting of Plaintiff defines the class as (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter in the form represented by Exhibit A to the Complaint in this action, (c) seeking to collect a debt for personal, family or household purposes and owed to JH Capital, (d) between March 10, 2016 and March 10, 2017, inclusive, (e) that was not returned by the postal service.

33. The Class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of the Class.

34. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

35. Plaintiff's claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

36. Plaintiff will fairly and adequately represent the interests of the Class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

37. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

JURY DEMAND

38. Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

(a) actual damages;

- (b) statutory damages;
- (c) attorneys' fees, litigation expenses and costs of suit; and
- (d) such other or further relief as the Court deems proper.

Dated: July 24, 2017

ADEMI & O'REILLY, LLP

By: /s/ John D. Blythin
Shpetim Ademi (SBN 1026973)
John D. Blythin (SBN 1046105)
Mark A. Eldridge (SBN 1089944)
Denise L. Morris (SBN 1097911)
3620 East Layton Avenue
Cudahy, WI 53110
(414) 482-8000
(414) 482-8001 (fax)
sademi@ademilaw.com
jblythin@ademilaw.com
meldridge@ademilaw.com
dmorris@ademilaw.com